

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 376 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
1 to 5 : NO

JAY CERAMIC INDUSTRIES

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

MR SURESH M SHAH for Petitioner

MR TUSHAR MEHTA for Respondent No. 1, 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 18/02/98

ORAL JUDGEMENT

Rule.

Mr. Tushar Mehta, learned advocate waives service of Rule on behalf of respondents.

2. The petitioner purchased the industrial unit in question at a public sale held by the GSFC for recovering

its loan dues from its borrower. As the said party had not paid the electricity dues, the Gujarat Electricity Board had disconnected the electric supply before the Unit was purchased by the present petitioner.

3. The petitioner requested the GEB to restore that electric supply but the respondent did not pay any heed to the said request on the ground that the arrears of the previous owner were not cleared. The petitioner has, therefore, approached this Court invoking the decision of the Supreme Court in the case of M/s. Isha Marbles v. Bihar State Electricity Board, 1995 (2) GLH 134 holding that an auction purchaser is not liable to discharge liability of former owner in respect of its electricity dues.

4. There is no dispute about the fact that the present case is covered by the principle laid down by the Supreme Court in the aforesaid decision. Hence, the petition is required to be allowed.

5. In view of the fact that the property was purchased by the petitioner at a public sale held by the GSFC and the matter is covered by the judgment of the Supreme Court, the respondent ought not to have insisted for payment of dues of the previous owner, especially because in Special Civil Application No. 458 of 1997, this Court had in its order dated 6th October, 1997 specifically cautioned the GEB, Wankaner to follow the aforesaid principle laid down by the Hon'ble Supreme Court and indicated that in case more such cases crop up before the Court, the Court will not have any other alternative but to award costs, if electricity is not restored to such Units.

In spite of the aforesaid caution, in this case also, Deputy Engineer, G.E.B., Wankaner insisted upon payment of dues of the previous owner though the petitioner had purchased the property in question at a public auction held by the GSFC. Hence, the respondent Board shall pay the petitioner the costs of this petition which are quantified at Rs. 3,000/=. It will be open to respondent no. 1 GEB to recover the costs from the Officer concerned whose default has resulted into the present order being passed.

6. The learned counsel for the petitioner states that there is already an existing transformer from which electricity was being supplied to the Unit when it was occupied by the previous owner and the respondents will

be in a position to restore electricity supply without their being required to augment the supply for making it available to the petitioner. Mr. Mehta, learned advocate appearing for the respondents does not admit the aforesaid statement. It goes without saying that the aforesaid statement being made on behalf of the petitioner shall be considered by the respondents before taking decision about the charges to be recovered from the petitioner.

7. The respondents are accordingly directed to restore the electricity supply to the petitioner, without requiring the petitioner to pay the dues of Messrs. RAH Ceramic Industries (the previous owner). The petitioner shall, however, be liable to pay the other usual charges and to comply with the other procedural requirements for obtaining such electricity supply. The respondents shall pay the petitioner costs of this petition, quantified at Rs. 3,000/= in one set.

Rule is made absolute to the aforesaid extent.
Direct service is permitted.

Prakash*